

NORTON ROSE FULBRIGHT US LLP
Katherine G. Connolly (SBN 313640)
katie.connolly@nortonrosefulbright.com
555 California Street, Suite 3300
San Francisco, CA 94104
Telephone: (628) 231-6800
Facsimile: (628) 231-6799

Attorney for *Third Party* QUALCOMM
INCORPORATED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

Case No. 23-mc-80322-EJD

In re *Ex Parte* Application of

CONSUMERS' ASSOCIATION

Petitioner for an Order Pursuant to 28 U.S.C.
§ 1782 to Conduct Discovery for Use in a
Foreign Proceeding

**ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES
SHOULD BE RELATED UNDER
CIVIL LOCAL RULES 3-12 AND
7-11**

Pursuant to Civil Local Rules 3-12(b) and 7-11, Third Party Qualcomm Incorporated (“Qualcomm”) files this administrative motion to ask the Court to consider whether *In Re Ex Parte Application Of Qualcomm Incorporated*, No. 24-mc-80019 (filed January 26, 2024) should be related to this earlier-filed action, *In re Ex Parte Application of Consumers’ Association*, No. 23-mc-80322-EJD (filed December 7, 2023) before the Honorable Edward J. Davila, (collectively, the “Actions”).¹

The Actions appear to be related under Civil Local Rule 3-12(a), which provides that actions are related to another when: “(1) The actions concern substantially the same parties, property, transaction, or event; and (2) It appears likely that there will be an unduly burdensome duplication of labor and expense or conflicting results if the cases are conducted before different Judges.”

First, the Actions “concern substantially the same parties.” The intended subpoena recipients are the same in both cases: Apple Inc., Samsung Semiconductor, Inc. and/or Samsung Electronics America, Inc. Connolly Decl. ¶ 4. While the applicants, Qualcomm and Consumers’ Association (in the earlier-filed case), are different between the two cases, both are parties to the same ongoing legal proceeding in the United Kingdom (the “U.K. Class Action”) that forms the basis of the requested

¹ A copy of the December 7, 2023 *Ex Parte* Application (ECF 1, with attachments) and Memorandum of Points of Authorities in support of the *Ex Parte* Application (ECF 3, without attachments) filed in 23-mc-80322 are attached as **Exhibit 1** to the Declaration of Katherine G. Connolly (“Connolly Decl.”) filed in support of this Administrative Motion To Consider Whether Cases Should Be Related Under Civil Local Rules 3-12 And 7-11. A copy of the January 26, 2024 *Ex Parte* Application in support of the *Ex Parte* Application filed in and 24-mc-80019 is attached as **Exhibit 2** to the Connolly Decl.

1 discovery. Connolly Decl. ¶ 5.

2 Second, the Actions concern “the same transaction or event.” In both cases,
3 the applicants request an order granting leave to take discovery for use in the U.K.
4 Class Action. As such, substantially the same legal arguments regarding the statutory
5 requirements and discretionary *Intel* factors under 28 U.S.C. § 1782 are being made
6 in both Actions. Connolly Decl. ¶ 6.

7
8 Third, for the reasons set forth above, there will be an unduly burdensome
9 duplication of labor and expense, judicial resources, and potentially inconsistent
10 results, if the two Actions were to be conducted before different judges. Accordingly,
11 relating the Actions will serve the interests of judicial economy and avoid the
12 potential for conflicting results, consistent with Civil Local Rule 3-12(a).

13 Counsel for the Applicant Consumers’ Association in *In re Ex Parte*
14 *Application of Consumers’ Association* has stated that it opposes the relief “at this
15 stage but acknowledges that this may be sensible in due course”. Connolly Decl. ¶ 7.

16 For these reasons, Qualcomm respectfully requests that this Court enter an
17 order relating *In re Ex Parte Application of Qualcomm Incorporated*, Case No. 24-
18 mc-80019 (filed January 26, 2024) with *In re Ex Parte Application of Consumers’*
19 *Association*, Case No. 23-mc-80322-EJD (filed December 7, 2023).

1 Dated: January 30, 2024

NORTON ROSE FULBRIGHT US LLP

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3 By /s/ Katherine G. Connolly
4 Katherine G. Connolly (SBN 313640)
5 NORTON ROSE FULBRIGHT US LLP
6 katie.connolly@nortonrosefulbright.com
7 555 California Street, Suite 3300
8 San Francisco, CA 94104
9 Telephone: (628) 231-6800
10 Facsimile: (628) 231-6799
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